

BFLG'S STEPS IN FAMILY COURT

Step 1: Commencement of a court proceeding: The Applicant (this can be either spouse) prepares, issues, serves and files a Family Court Application, Affidavit and Financial Statement. This is usually prepared by your legal team and can take anywhere from 5-20 hours.

Step 2: Responding to Application: The Respondent (this is the other spouse) has 30 days from the day the Application was served on them to prepare, serve and file an Answer, Affidavit and Financial Statement. This can take anywhere from 5-20 hours.

Step 3: Replying to Answer: The Applicant has 10 days from the day the Answer was served on them to prepare, serve and file a Reply. The Reply is optional. This can take anywhere from 2-10 hours.

Step 4: Case Conference: A Case Conference is a first meeting with a judge to attempt to settle the case or at least create a process for its continuation. Each spouse has to prepare, serve and file a Case Conference Brief, Request For Information, Draft Order, Financial Statement and Confirmation. This can take anywhere from 5-10 hours.

Step 5: Motions: After the hearing of a Case Conference, either party may bring a Motion for a determination of an issue on a temporary basis. Typical Motions are for the sale of the matrimonial home, a parenting schedule, support or financial disclosure. Motions are optional. The Moving Party has to prepare, serve and file a Notice of Motion, Affidavit(s), Factum of Law, Draft Order, Financial Statement, Offer To Settle and Confirmation before the hearing, plus prepare oral arguments for the hearing and then attend at the hearing to argue the Motion and answer the Judge. This can take anywhere from 10-50 hours.

Step 6: Questioning: Questioning is an opportunity to cross-examine a spouse under oath with a court reporter present and to request certain undertakings as may be required. Questioning results in a Transcript. Questioning is optional. You and your lawyer will need to carefully prepare for Questioning and then attend at Questioning. This can take anywhere from 10-50 hours.

Step 7: Settlement Conference: A Settlement Conference is like a Case Conference except that it is geared towards settling the case after financial disclosure, Motions and Questioning and before trial. Each spouse has to prepare, serve and file a Settlement Conference Brief, Financial Statement, Comparative Net Family Property Statement, SupportMate calculations and a Confirmation. This can take anywhere from 10-20 hours.

Step 8: Trial Management Conference: A Trial Management Conference is a final meeting with a judge to be assigned a trial date and organize the trial schedule. Each spouse has to prepare, serve and file a Trial Scheduling Endorsement Form and a Confirmation. This can take anywhere from 5-10 hours.

Step 9: Exit Pre-Trial: On occasion, the court will schedule a last-minute Exit Pre-Trial right before trial as a last attempt to settle the case before trial. This can take anywhere from 5-10 hours.

Step 10: Trial: Trials can be days or weeks long depending on the number of contested issues, the complexity of the case and the number of witnesses and experts.

Step 11: Appeal: If a spouse believes that the trial judge made an error in their Judgment, that spouse may appeal it to the Ontario Court of Appeal.

Step 12: Motion to Change: Either spouse may seek a change to a Separation Agreement or Final Order in case there has been a change in circumstances.

NOTE: These steps may sometimes occur in a different order. For example, in case of a family emergency, you can have a Motion before a Case Conference. You can also have a Motion after Questioning and after a Settlement Conference. You might also have to attend more than one Case Conference or more than one Settlement Conference. This list does not include mediation, assessments or use of experts.

For an excellent description of the importance (and cost) of each step, you may want to read the Judgment of Justice Price in Casson v. Casson, 2021 ONSC 4601 (CanLII) located at:

<https://www.canlii.org/en/on/onsc/doc/2021/2021onsc4601/2021onsc4601.html?resultIndex=16&resultId=f74d4f6ce2ac4bfdb005bb880512aed7&searchId=2024-07-08T14:37:31:076/67dfc0e4ec2b4105a9>

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